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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,636	10/16/2001	James D. Marks	407T-897710US	7011
22798	7590	06/30/2004	EXAMINER	
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C. P O BOX 458 ALAMEDA, CA 94501			LUCAS, ZACHARIAH	
			ART UNIT	PAPER NUMBER

1648

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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Commissioner for Patents

Notice of Non-Responsive Amendment.

### DETAILED ACTION

1. A Requirement for Restriction was mailed in this case on March 9, 2004. The Election requirements have been reproduced below. In the Response filed on May 10, 2004, the Applicant elected with traverse Group I and subgroup B. However, according to the species election, on pages 6-7 of the Restriction Requirement, if the Applicant elected Group I, the Applicant would also be required to elect one species each of an epitope tag and a reporter/effector moiety (species requirement reproduced and bolded below). No such election was made in the Applicant's response.

2. The reply filed on May 10, 2004 is not fully responsive to the prior Office Action because the Applicant failed to make the required species election. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

#### ***Reproduction of Election Groups from Requirement for Restriction***

#### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to methods for the identification of ligands internalized into a cell, classified in class 435, subclass 7.2.
- II. Claims 16-31, and 56-58, drawn to methods for the identification of receptors that internalize ligands, classified in class 435, subclass 7.2.
- III. Claims 32-43, 54, and 55, drawn to ligand libraries, classified in class 435, subclass 7.1. (For the purposes of this restriction, claims 36-38 are being read as though the term “method of claim 33” was a typographical error, and the Applicant intended these claims to further identify the library of claim 33. If this is an incorrect interpretation of the claims, and the Applicant wishes to elect either Group III, or a method intended by the language of claims 36-38, the Applicant is requested to clarify what is meant to be encompassed by these claims).
- IV. Claims 44-53, drawn to constructs comprising a ligand, an effector, and an epitope tag, classified in class 430, subclass 350.
- V. Claims 59-61, drawn to methods for the identification of ligand internalization modulators, classified in class 435, subclass 7.2.
- VI. Claims 62-65, drawn to a metal chelating lipid, classified in class 536, subclass 1.11.
- VII. Claims 66-68, drawn to methods for the delivery of an effector into a cell, classified in class 514, subclass 2.
- VIII. Claims 69-72, drawn to compositions comprising a lipid, and hydrophilic polymer, and a chelation group; a ligand comprising an epitope tag; and an effector associated with the lipid, classified in class 514, subclass 2.

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For each of Groups I-V, VII, VIII above, restriction to one of the following is also required under 35 USC 121. Therefore, election is required of one of Groups I-VIII, and, if one of Groups I-V, VII, or VIII is elected, then election is also required to one of inventions (A)-(D). The subinventions of Groups (A)-(D) comprise the elected invention wherein the ligand is:

- (A) a peptide ligand;
- (B) an antibody ligand;
- (C) a cytokine ligand; or
- (D) a growth factor ligand.

### ***Species Election***

**This application contains claims directed to the following patentably distinct species of the claimed invention: In each of Groups I-IV, the claims further identify species of inventions comprising different epitope tags, and different reporter/effector moieties. If the Applicant elects any of Groups I-IV, Applicant is further required to elect one each of**

- a. An epitope tag from (e.g.) claim 9; and**
- b. A reporter/effector moiety from (e.g.) claim 10.**

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 16, 32, and 44 are generic.

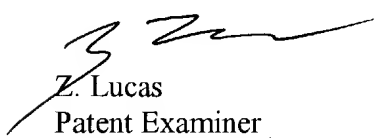
### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachariah Lucas whose telephone number is 571-272-0905. The examiner can normally be reached on Monday-Friday, 8 am to 4:30 pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on 571-272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Z. Lucas  
Patent Examiner



6/28/04  
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